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CEDAM
COMMUNITY ECONOMIC DEVELOPMENT ASSOCIATION OF MICHIGAN

1118 S. Washington Ave
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March 8, 2016

The Honorable Darwin Booher, Chair
Senate Banking and Financial Services Committee
Michigan Senate
State Capitol
Lansing, MI 48909

Dear Chairman Booher:

I am writing to you on behalf of the Community Economic Development Association of Michigan (CEDAM) in opposition of Senate Bills 842 and 843. CEDAM is a statewide, nonprofit membership organization with more than 200 members engaged in community-based economic development. This work includes affordable housing development and foreclosure mitigation, food and transportation access, downtown and neighborhood revitalization, free tax preparation, alternative lending programs, small business assistance, financial counseling and more.

CEDAM and its membership are opposed to this legislation for a number of reasons. The proposed legislation would open the door to longer term, triple-digit interest loans in the state of Michigan. Modeled on similar loans offered in Ohio, these loans are marketed as a quick financial fix, but are instead a long-term debt trap for borrowers. At its core, loans authorized under SB 842 and 843 are loans with excessive rates that will last months or even years. Lenders will still get access to the borrower's bank account and have no regard to whether the loan is affordable or not. In addition to charging the equivalent of triple-digit interest rates via fees, a typical Credit Service Organization loan requires no credit check, and lenders do not generally ask about monthly expenses or debts. The current legislation puts no limit on the amount or length of the loan or the fees that storefront payday lenders may charge. In Ohio, similar legislation is being used for auto-title lending – something that Michigan voters came out in strong opposition to just last session.

According to a recent poll, 85% of Michiganders are opposed to payday loans, and 89% are opposed to payday lenders offering longer-term high-cost loans. There is no partisan split on these views – Republicans, Independents, and Democrats are all opposed to payday lending and payday lending expansion in the state. Further, more than three-quarters of Michigan voters would have a less favorable opinion of political candidates who support expanding payday lending in the state.

While these loans are said to provide access to credit for those who can't use a credit card or have no access to traditional loans, the reality is that borrowers consistently report a range of options in dealing with a financial shortfall if these high-interest loans aren't available. While working with financial counselors to get out of their debt traps, clients have reported cutting back on expenses, borrowing from friends or family, waiting for tax refunds, or waiting until payday as options they have used to cover expenses. In addition, these loans are associated with the increased likelihood of delinquency on other bills, including medical and utility bills, increased overdraft fees, involuntary bank account closures and even bankruptcy. Both payday and auto title loans put current assets at risk, and erect barriers to building assets for the future.

The lenders who want to offer this product are arguing that the loans offered under the Deferred Presentment Act will no longer be available when the CFPB rules are released. First, the rules have not yet been released, so we do not know exactly what they are going to look like. Finally, the rule most feared by the lenders is the common sense rule that would require them to make a reasonable determination that the person taking out the loan can pay it back. These new loan products are nothing more than a way for lenders to evade the rate cap in the Regulatory Loan Act and to offer longer-term loans with triple-digit interest rates.

In 2006, the Michigan Department of Labor and Economic Growth found that broker fees charged by payday lenders operating as credit repair organizations are a "deceptive subterfuge designed to extract impermissible fees from a borrower" and evade the state's applicable usury law. The department ruled that "The purpose of [the CSO] business model appears to be to avoid the interest rate limits... as well as the fee limitations placed on... payday loans." The Department of Insurance and Financial Services reiterated this well-reasoned opinion in 2014, and that decision was upheld in court just last year.

Credit repair acts were originally designed to regulate organizations offering debt relief services, not lending services, so these statutes do not limit the fees and fail to incorporate such fees into the cost of the underlying credit. In addition, those licensed under CSO statutes are not necessarily subject to the restrictions that apply to other small-dollar consumer lenders. This loophole has resulted in a migration of payday lenders to CSO Acts in several states for the sole purpose of perpetuating their usurious business model, evading rate caps that would otherwise prevent a debt trap.

CEDAM has witnessed a strong shift in the community development field toward a greater focus on household financial security. If our families cannot successfully manage their monthly income and expenses, save for emergencies and eventually secure assets like homeownership or small business ownership, then our efforts to improve our physical infrastructure and build local economies have far less impact. Considering the very real dangers of these longer-term, high interest loans, we urge you to oppose SB 842 and 843, which would establish these high-cost loans in Michigan and prey on our state's hard working families.

Respectfully,

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